

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6312

BILL NUMBER: HB 1558

NOTE PREPARED: Dec 22, 2008

BILL AMENDED:

SUBJECT: Regulation of Confined Feeding Operations.

FIRST AUTHOR: Rep. Blanton

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Disclosure Requirements and Other Administrative Duties.* This bill establishes good character disclosure requirements and financial assurance requirements for confined feeding operations and concentrated animal feeding operations (operations). It allows the Department of Environmental Management (IDEM) to review and act on disclosed good character information. The bill provides that (1) IDEM approval of operations applies to both original construction and modifications; and (2) the requirement for notice to owners or occupants of neighboring land applies to all operations.

Construction Near Certain Facilities. The bill prohibits construction of an operation less than one mile from the boundary of a parcel of land on which a school or health facility is located, the boundary of a municipality, or waters.

Effective Date: January 1, 2010.

Explanation of State Expenditures: *Disclosure Requirements and Other Administrative Duties.* A responsible party must submit to IDEM a disclosure statement and certain additional information. IDEM may investigate and verify the information. Based on findings, the commissioner may deny the application. The bill provides that the Solid Waste Management Board must adopt rules to administer the provisions of the bill. It is expected that IDEM will be able to cover any additional expenses associated with these provisions given existing levels of resources.

For FY 2008, IDEM reverted over \$5.9 M in state General Fund revenues. Total reversions for all funds equaled \$14.4 M.

Construction Near Certain Facilities. The proposal could reduce administrative expenses for IDEM associated with oversight of CFOs and CAFOs if the proposal results in fewer operations being constructed in Indiana. The specific impact is indeterminable. IDEM is funded by both state General Fund and dedicated fund appropriations.

Penalty: The bill provides that disclosure statements are subject to the penalty for perjury, a Class D felony. A Class D felony is punishable by a prison term ranging from 6 months to 3 years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately 10 months. However, any additional expenditures are likely to be small.

Explanation of State Revenues: *Construction Near Certain Facilities.* If fewer operations are constructed in Indiana as a result of the proposal, revenue generated by CFO and CAFO fees could decrease. The overall impact, however, is not expected to be significant.

Penalty: If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000. The bill also provides that a person who hauls manure in violation of the provisions of the bill commits a Class C infraction. The maximum judgment for a Class C infraction is \$500, which would be deposited in the state General Fund. However, any additional revenues would likely be small.

Bonding. Applicants must submit to IDEM evidence of financial assurance payable to IDEM and conditional upon faithful performance and compliance with environmental laws. This provision may result in additional revenue if the applicant violates requirements.

Background: In FY 2008, 2,211 operations existed in Indiana. CFOs pay a one-time fee of \$100. CFOs renew every 5 years for free. CAFOs that seek a general NPDES permit pay \$150 every 5 years and \$100 for construction or modification. CAFOs that seek an individual NPDES permit pay \$300 every 5 years and \$100 for initial construction or modification. Fees are deposited in dedicated environmental permit fund used for IDEM operations.

Explanation of Local Expenditures: *Disclosure Requirements and Other Administrative Duties:* Applicants who apply for approval to construct a CAFO or to modify a CFO or CAFO on land that is undeveloped or for which a valid existing approval has not been issued must notify the county executive. This provision should have minimal impact on the county.

Penalty: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

Explanation of Local Revenues: *Penalty:* If additional court actions are filed and a judgment is entered, local governments would receive revenue from court fees. However, any additional revenue is likely to be small.

State Agencies Affected: IDEM; DOC.

Local Agencies Affected: Schools, municipalities; trial courts, local law enforcement agencies, and counties.

Information Sources: IDEM, State Budget Agency.

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